

***** UPDATE *****

To: Berezowski Business Immigration Law Clients
From: Nan Berezowski, Barrister & Solicitor, Attorney-at-Law
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Re: Cannabis and the Border do not Mix

On October 18th Cannabis became legal in Canada for adult use, possession, purchase and distribution. However, under Canadian law, it remains illegal to take Cannabis across any international border by any means (land, water or air). This rule applies regardless of whether Cannabis is legal in the destination country or state.

Here are some pointers to keep in mind when traveling to the US:

1. **Do not bring any type of Cannabis to the border** ~ Cannabis remains a controlled substance under US federal law which governs U.S. borders. This means that despite legalization in Canada and in certain US states, it is still illegal to travel to *any* state while in possession of the drug. If you attempt to transport recreational or medicinal cannabis into the U.S. you could be fined, arrested and face state and federal charges as well as a lifetime bar to entry. If you have had Cannabis in your clothing or your vehicle you should consider a professional cleaning prior to travel!
2. **Tell the truth or say nothing** ~ At the border dishonesty can lead to denied entry and misrepresentation charges that can result in a temporary or a permanent bar from entry to the U.S. On the other hand, disclosure of Cannabis use could be problematic. While there are legal arguments as to what constitutes a criminal admission and answering a question relating to Cannabis use affirmatively may not ultimately constitute an admission of a crime, this will be little consolation if you are denied entry to the US and your future travel is jeopardized. Your other option is to remain silent and, if necessary, to withdraw your 'application' for entry to the U.S. Unfortunately, the disclosure issue is still evolving and at the time of writing there is no fail proof approach.
3. **Do not wear or carry Cannabis paraphernalia** ~ While you are required to answers questions put to you by USCBP in an honest and straightforward manner, you are not required to volunteer your life story. In this vein, we recommend against wearing items of clothing that indicate or could infer Cannabis use and urge people to refrain from bringing any type Cannabis paraphernalia to the border.
4. **You can be refused entry for business travel** ~ If you work in the Cannabis industry you may be refused entry for business travel, even if you are travelling to a U.S. state where Cannabis is legal. If you are entering the US for unrelated reasons, you may also be scrutinized.
5. **A Canadian pardon does not mean you are admissible to the U.S.** ~ The Canadian Government has announced that it will introduce legislation to allow Canadians with simple Cannabis possession convictions (30 grams or less) to qualify for a pardon. However, the U.S., and many other countries, do not recognize foreign pardons. A waiver of inadmissibility will usually be necessary to enter the US if you have a prior conviction.

- 6. US citizens returning from Canada to the US may be searched** ~ Americans suspected of using Cannabis while in Canada may have their vehicles searched to ensure they are not bringing any home with them. Again, if you have had Cannabis in your clothing or vehicle, please consider a professional cleaning prior to travel.

This is an area of the law that is developing; we therefore recommend a careful and cautious approach when it comes to Cannabis at the border. In many cases, we expect that determinations relating to admissibility will be made on a case-by-case basis based on both fact and circumstance. If you have specific questions regarding Cannabis and your travel to the US please contact us.

Nan Berezowski (BA, LL.B, LL.M) compiled this Update with the latest available information for the general information of Berezowski Business Immigration Law clients and other interested parties. This Update is not comprehensive and should not be relied upon without appropriate legal advice.